# Agenda

# Bar Harbor Town Council April 20, 2010

- I. CALL TO ORDER -7:00 p.m.
  - A. Excused Absence(s)
- II. APPROVAL OF MINUTES
  - A. April 6, 2010
- III. ADOPTION OF AGENDA
- IV. **FINANCIAL STATEMENTS** Review and possible acceptance.
- V. **CONSENT AGENDA** A single vote has been scheduled to approve the following items of business without discussion, unless individual agenda item action is requested by a Councilor:
  - A. **Town Meeting:** June 2010 Possible adoption of a motion to approve and sign the Annual Town Meeting Warrant and Notice of Public Hearing.
  - B. **Taxicabs/Bus Permit Renewals** Possible adoption of a motion <u>to approve as submitted the taxicab and bus permit applications of At Your Service Taxi and Oli's Trolley, Inc: Acadia Island Tours.</u>
    - 1. **At Your Service Taxi** Application of Clare Bingham for renewal of nine taxicab permits.
    - 2. **Oli's Trolley Inc.: Acadia Island Tours** Application of William Sweet for renewal of four trolley permits.

#### VI. PUBLIC HEARINGS:

A. **Special Amusement Permit: The Fish House Grill**, One West Street, for a Class 3a, three or more musicians with mechanical amplification, as submitted by Jeremy and Kristi Bond. (Renewal)

#### VII. REGULAR BUSINESS:

- A. **Committee Consultations** Discussion of current projects, future plans and any support needed from Town Council
  - 1. Conservation Commission
  - 2. Scenic Byway Corridor Management Committee

- B. **Cruise Ship Committee** Update by Councilor and Cruise Ship Committee Chair Paul Paradis:
  - 1. **Harborview Park** Request of the Committee for authorization to meet with the Parks & Recreation Committee to discuss their proposal to place an information booth in Harborview Park.
  - 2. **Community Survey** Review of questions to be posed in a community survey of attitudes and opinions on cruise ship issues.
- C. **FY10 Budget Transfer** Request of the Parks and Recreation Committee for the \$1,837 remaining from Town Hill Playground donations to be transferred to the Capital Improvement Program's Park Equipment account.
- D. **Consent Agreement Policy** Review and possible adoption of guidelines and procedures for the consideration and processing of consent agreements to settle Land Use Ordinance violations.
- E. **Treasurer's Warrant** Request of Treasurer to authorize paid bills.
- VIII. COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA
- IX. ADJOURNMENT

In order to assure your full participation in this meeting, we would appreciate your informing us of any special requirements you might have due to a disability.

Please call 288-4098

### Minutes

# Bar Harbor Town Council April 6, 2010

- I. CALL TO ORDER 7:00 p.m. In attendance were Councilors: Sandy McFarland, Ruth Eveland, Paul Paradis, Peter St. Germain, Jane Disney, Greg Veilleux, Robert Jordan, Jr.; and Town Manager Dana Reed.
  - A. Excused Absence(s) There were none.
- II. APPROVAL OF MINUTES
  - A. March 16, 2010 Regular Meeting
  - B. March 25, 2010 Special Meeting
  - C. March 30, 2010 Special Meeting

Mr. Paradis, with second by Ms. Eveland, moved to approve the minutes of the March 16, 2010 Regular Meeting as presented, with the exception of amending the last line of item VII(C) to read "and return to Council with a draft by May 4, 2010" and to approve the minutes of the March 25, 2010 and March 30, 2010 Special Meetings as presented. Motion passed 7-0.

- III. **ADOPTION OF AGENDA** Mr. Paradis, with second by Ms. Eveland, moved to adopt the agenda as presented. Motion passed 7-0.
- IV. **CONSENT AGENDA** A single vote has been scheduled to approve the following items of business without discussion, unless individual agenda item action is requested by a Councilor:
  - A. **Proclamation** *Possible adoption of a motion* to approve the resolve recognizing the contributions of public libraries in American society and proclaiming April 11-17, 2010 as National Library Week in Bar Harbor.

### NATIONAL LIBRARY WEEK PROCLAMATION

April 11 – 17, 2010

WHEREAS, libraries everywhere play a vital role in supporting the quality of life in their communities; and,

WHEREAS, libraries can help you discover a world of knowledge, both in person and online, as well as personal service and assistance in finding what you need, when you need it; and.

WHEREAS, libraries are a key player in the national discourse on intellectual freedom, equity of access, and narrowing the "digital divide;" and,

WHEREAS, libraries serve as crucial technology hubs for people in need of free Web access, and provide assistance in using the service; and,

**WHEREAS**, libraries are part of the American Dream -- places for opportunity, education, self-help and lifelong learning; and,

WHEREAS, Jesup Memorial Library has been serving as Bar Harbor's public library for ninety-nine years, and is actively planning for its future; and,

WHEREAS, more than seventy percent of Bar Harbor's residents are registered users of the Jesup Memorial Library, and in 2009 borrowed more than 65,000 items from the Library;

**NOW, THEREFORE**, be it resolved that the Town Council of Bar Harbor recognizes April 11 – 17, 2010 as National Library Week, and encourages all residents to visit the Library this week to take advantage of the wonderful resources available at Jesup Memorial Library.

B. Snow Removal Policy – Possible adoption of a motion to approve the Snow Removal Policy amendment dated 3-31-10.

#### **Snow Removal Policy**

Town of Bar Harbor

Since all streets and sidewalks cannot be plowed and/or sanded first, it is necessary for the Town of Bar Harbor to set priority areas based, primarily, on the need to keep emergency vehicle response routes open and, secondarily, on the volume of traffic.

#### **Snow Plowing - Streets**

### Priority One - Primary Routes

Top priority shall be given to Eagle Lake Road, Ledgelawn Avenue, Main Street, Route 3 to Mt. Desert Town Line, Mt. Desert Street, Cottage Street, Rodick Street, Firefly Lane Town Hill Fire Department Parking Lot, Wayman Lane, Hancock Street, Norway Drive, Crooked Road, Indian Point Road, Highbrook Road, West Street, West Street Extension, Cromwell Harbor Road, and Oak Hill Road.

#### Priority Two - Secondary Routes

Once the Priority One roads have been and can be kept clear, work will proceed to Knox Road, , Old Bar Harbor Road, DeGregoire Park Road, Meadow Drive, Folkestone Drive, Fern Meadow Drive, Pine Heath Road, the Municipal Building Parking Lot, Casino Parking Lot, the front of the Police Station, and the parking around the Fire Station.

#### Priority Three - Local Streets

Once the Priority Two roads have been and can be kept clear, then work will proceed to the local streets serving only the immediate area.

#### **Snow Plowing - Sidewalks**

While sidewalks, generally, will be plowed simultaneously with Town streets, the Highway Division may delay sidewalk plowing as needed to accommodate weather conditions, manpower shortages and equipment breakdowns.

#### Priority One - Primary Routes

Top priority for sidewalk plowing shall be given to:

Cottage Street - north side

Eden Street – east side from Mt. Desert Street to the College of the Atlantic

Ledgelawn Avenue - east side only

Main Street – both sides from West Street to Park Street; east side only from Livingston Road to Schooner Head Road

Schooner Head Road - from Main Street to the Jackson Lab

Mt. Desert Street – both sides from Eden Street to Main Street

#### Priority Two - Secondary Routes

Once the Priority One sidewalks have been and can be kept clear, work will proceed to:

Cottage Street - south side

Eagle Lake Road – north side from Eden Street to Forest Street
Holland Avenue – west side from Mt. Desert Street to Cottage Street
West Street – north side from Eden Street to 125 West Street; south side from
Holland Avenue to Main Street (unable to plow the entire length of north side
due to telephone poles placed in sidewalks)

#### Priority Three - Tertiary Routes

Once the Priority Two sidewalks have been and can be kept clear, work will proceed to:

Ledgelawn Avenue – west side from Mt. Desert Street to Cromwell Harbor Road

Park Street – north side from Ledgelawn Avenue to Main Street Spring Street – east side from Mt. Desert Street to Waldron Road Waldron Road – north side from Spring Street to Ledgelawn Avenue

# **Snow Hauling**

After the roads and sidewalks have all been plowed and sanded, and the crew has rested, the Highway Division can begin hauling snow from the parking lots and those streets where the traffic lanes are restricted. Each project has been given a priority.

#### **Priority One**

School crossings and walks.

# **Priority Two**

Main Street, Mount Desert Street, Cottage Street, Municipal Parking Lots.

#### Priority Three

Lower Main Street, Cottage Street (from Eden Street to Cadillac Avenue), Sewer Pumping Stations, Ledgelawn Avenue and the Casino Parking Lot.

#### **Priority Four**

Snow shall then be removed from those corners where it is restricting visibility.

## Mailbox Replacement

By law, the Town has no responsibility for snowplow damage to mailboxes located within the Town's right-of-way. However, in the interest of assisting citizens whose mailbox may have been damaged by a Town snowplow, the Town will replace and install a standard, utility style, mailbox, house numbers and post when time permits, if the existing box and post were in good repair and installed in accordance with written specifications provided by the Public Works Department.

- C. Memorial Day Possible adoption of a motion to authorize the Memorial Day ceremony and parade described in a March 25 email from George Clement.
- D. Water & Sewer Fee Commitment Possible adoption of a motion to commit the water and sewer fees to the Town Treasurer for collection.
- E. MDI Regional School District Budget Validation Referendum *Possible adoption of a motion* to re-countersign the warrant for the MDIRSS Budget Referendum, per MRSA 20-A§1486.
- F. AOS #91 Budget Validation Referendum Possible adoption of a motion to re-countersign the warrant for the AOS #91 Budget Referendum, per MRSA 21-A.
- G. **Proclamation** *Possible adoption of a motion* to declare May 8, 2010 as National Association of Letter Carriers Food Drive Day.

# Proclamation National Association of Letter Carriers Food Drive Day Saturday, May 8, 2010

WHEREAS, the National Association of Letter Carriers, the United States Postal Service, and the AFL/CIO have partnered with the United Way of Eastern Maine for the 18<sup>th</sup> annual National Association of Letter Carriers Food Drive; and

WHEREAS, this event is the largest one-day food drive in the nation and has raised over 90 million pounds of food nationally for each of the past three consecutive years, feeding families throughout the nation; and

WHEREAS, an estimated 30 million people in America face hunger each day, including 12 million children; and

WHEREAS, letter carriers across Maine will collect food at residents' mailboxes on Saturday, May 8, 2010, to be dispersed to local food banks and pantries;

Be it resolved, THAT THE Bar Harbor Town Council does hereby proclaim Saturday, May 8, 2010 as

# NATIONAL ASSOCIATION OF LETTER CARRIERS FOOD DRIVE DAY

in Bar Harbor, and urge all citizens to combat hunger in Maine by leaving non-perishable food items by their mailboxes for their letter carriers on this day. Further, we encourage all residents to recognize and commend Bar Harbor letter carriers, the volunteers involved and the people who donate food throughout the city for their generosity and participation in this tremendous community event to alleviate hunger in Maine.

H. Superintending School Committee – Possible adoption of a motion to approve the order shortening the nomination process to fill the school committee seat vacated by Ned Johnston.

# Order by Bar Harbor Town Council

Pursuant to MRSA 30-A §2528(4)(E), the Bar Harbor Town Council hereby orders the Town Clerk to prepare nomination papers to fill by election at the annual Town Meeting held on June 8, 2010, one Superintending School Committee seat for one year term commencing June 9, 2010. The Bar Harbor Town Council hereby designates nomination papers shall be made available April 7, 2010 with a filing deadline of April 23, 2010 by 5:00 p.m., the close of business.

Mr. Paradis, with second by Ms. Eveland, moved to approve all items on the consent agenda as published. Motion passed 7-0.

# V. **PUBLIC HEARINGS:**

# A. Special Amusement Permit Renewals:

- 1. **Kebo Valley Golf Club**, 136 Eagle Lake Road, for a Class 3ad, three or more musicians with mechanical amplification and dancing, as submitted by David Closson.
- 2. Atlantic Oceanside Hotel & Conference Center, 119 Eden Street, for a Class 3ad, three or more musicians with mechanical amplification and dancing, as submitted by Christine Witham.

There being no comments, Mr. Paradis, with second by Ms. Eveland, moved to approve the Class 3ad special amusement permits for the Kebo Valley Golf Club and the Atlantic Oceanside Hotel & Conference Center as submitted. Motion passed 7-0.

# VI. REGULAR BUSINESS:

- A. Cruise Ship Committee Possible appointment of members to new seats:
  - 1. Taxi Tours Industry Representative (term expiring 6-30-11)
  - 2. Tender Receiving Entity Representative (term expiring 6-30-12)
  - 3. Scientific Community Representative (term expiring 6-30-13)
    - Mr. Paradis nominated each of the following: <u>Clare Bingham as the Taxi Tours Industry Representative to the Cruise Ship Committee with a term expiring 6-30-11, Eben Salvatore as the Tender Receiving Entity Representative to the Cruise Ship Committee with a term expiring 6-30-12, and Anne Greenlee as the Scientific Community Representative to the Cruise Ship Committee with a term expiring 6-30-13. By unanimous vote, the slate of members was appointed.</u>
- B. Route 3 Reconstruction Presentation by MDOT project manager Fred Michaud on context sensitive solutions to this project. Following a detailed report of the new process MDOT plans for the Bar Harbor Route 3 reconstruction, the Route 3 Task Force will be the lead in public participation working with a facilitator and MDOT.

C. Bar Harbor Housing Authority – Possible appointment of the Reverend Father Dayton Salisbury and Mr. George Vose as resident representatives on the Housing Commission. – Mr. Paradis, with second by Ms. Eveland, moved to appoint Father Dayton Salisbury and George Vose as resident representatives on the Bar Harbor Housing Commission with terms to expire June 30, 2014 and June 30, 2012, respectively. Motion passed 7-0.

### D. Northeast Creek:

- 1. Review and possible approval of a \$1,000,000 grant agreement with the Bar Harbor Housing Authority which is contingent upon Town Meeting approval.
- 2. Review and possible approval of an Order placing Northeast Creek on the warrant for annual Town Meeting election, June 8, 2010.

Mr. Paradis, with second by Ms. Eveland, moved to approve and sign Version B of the Northeast Creek Grant Agreement and the Order placing Northeast Creek on the warrant for the June 8, 2010 annual Town Meeting election. Motion passed 7-0.

#### Order

Of the Bar Harbor Town Council For the June 8, 2010 Town Meeting

It is hereby ordered that the following article be placed on the town meeting warrant with voting thereon to be held by Australian ballot.

#### Warrant Article

**Article 14 – NORTHEAST CREEK** – To see if the Town of Bar Harbor will adopt the following vote to assist with the financing of Northeast Creek, a project of the Bar Harbor Housing Authority:

- 1. That a sum not to exceed \$1,000,000 is hereby appropriated for the purpose of assisting the Bar Harbor Housing Authority with the costs of its Northeast Creek housing project, on terms deemed appropriate by the Council; and
- 2. That the Treasurer and Chair of the Town Council, acting pursuant to the provisions of 30-A M.R.S.A. Section 5772, are hereby authorized to issue general obligation securities of the Town of Bar Harbor (with or without call provisions and with or without premium, and including temporary notes in anticipation of the sale thereof) in an aggregate principal amount not to exceed One Million dollars (\$1,000,000.00); and
- 3. That the discretion to fix the date(s), maturity(ies), interest rate(s), denominations(s), place(s) of payment, form and other details of said securities, including execution and delivery of said securities on behalf of the Town of Bar Harbor, and to provide for the sale thereof, is hereby delegated to the Treasurer and Chair of the Town Council; and
- 4. That the Town raise and appropriate the additional sum of \$90,756 for the Municipal Budget for FY11 (7/1/10 to 6/30/11) for debt service for Northeast Creek.

5. That the \$1,000,000.00 in bonding authority granted by Article 5 of the Town Meeting held on June 5, 2007 is hereby repealed.

#### FINANCIAL STATEMENT

As of June 1, 2010

#### 1. Total Town Indebtedness

A.	Bonds outstanding and unpaid	\$ 9,263 ,740
B.	Bonds authorized and unissued	\$ 5,140,947
C.	Bonds to be issued if this article is approved:	000,000,1

#### 2. Costs

At an estimated interest rate of 6.5% for a twenty (20) year maturity, the estimated costs for this bond issue will be:

Principal	\$ 1,000,000
Interest	\$ 815,128
Total Debt Service	\$ 1,815,128

#### 3. Validity

The validity of the bond and of the voters' ratification of the bond may not be affected by any error in the above statements. If the actual amount of the total debt service for the bond issues varies from the estimate, the ratification by the voters is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.

/s/\_\_\_\_\_Stanley W. Harmon
Treasurer of the Town of Bar Harbor

#### Explanation:

If approved, this article will allow the Town Council to borrow up to \$1,000,000 to assist the Bar Harbor Housing Authority with the financing of Northeast Creek, which will help make homes affordable for 20 working families. At the current 6.5% interest rate, the Town's loan payment for each of the next 20 years would be \$90,756, an amount partially offset by taxes paid on the new homes.

- E. **Business Roundtable** Presentation by the Chamber of Commerce on a new committee created with a mission to help build business-friendly conditions for the Bar Harbor business community. Chamber of Commerce representatives Matt Horton, Stacey Smith, and Chris Fogg stated their intentions to strengthen relations between businesses and Town government with their newly formed Business Roundtable.
- F. Water Division Office Building Continuation of the discussion from the March 16 meeting on the disposition of the old Water Company Office building located at 337 Main Street. There was no discussion and no action taken.

# G. Town Meeting June 2010:

# 1. Draft Warrant:

- a) Determination of Council recommendations for all articles, except Land Use Ordinance Amendments and elected officials.
  - 1.) Mr. Paradis, with second by Ms. Eveland, moved to recommend adoption of Article 2 Charter Modification. Motion passed 7-0.
  - 2.) Mr. Paradis, with second by Ms. Eveland, moved to recommend adoption of Article 7 Town Hill Mini Plan. Motion passed 5-2 (Nay: Dr. Disney, Mr. Veilleux).
  - 3.) Mr. Paradis, with second by Ms. Eveland, moved to recommend rejection of Article 14 Northeast Creek. Motion passed 4-3 (Nay: Dr. Disney, Mr. Jordan, Mr. St. Germain).
  - 4.) Mr. Paradis, with second by Ms. Eveland, moved to recommend rejection of Article 16 Continuing School Budget Validation. Motion passed 7-0.
- b) Review and possible approval of draft Warrant language. (see below)
- 2. **Notice of Public Hearing** *Possible approval of draft notice*.
  - Mr. Paradis, with second by Ms. Eveland, moved to approve the draft 2010 Annual Town Meeting Warrant and Notice of Public Hearing as presented. Motion passed 7-0.
- 3. Warden Appointment Possible appointment of Patricia Gray to serve as Warden for the State Primary and the school's AOS and MDI Regional School District elections. Mr. Paradis, with second by Ms. Eveland, moved to appoint Patricia Gray to serve as Warden for the State Primary and the school's AOS and MDI Regional School District elections. Motion passed 7-0.
- 4. Election Clerk Appointment Request of the Town Clerk for the appointment of election clerks for the next two years, in accordance with MRSA Title 21-A 503.1. Councilor Eveland disclosed that her husband is one of the election clerks seeking appointment on the slate of persons listed in the Town Clerk's memo. Mr. Paradis, with second by Mr. Veilleux, moved that Councilor Eveland does not have a personal interest in this matter. Motion passed 6-0-1 (Recused: Ms. Eveland).
  - Mr. Paradis, with second by Ms. Eveland, moved to appoint as election clerks the persons listed in the Town Clerk's memorandum dated March 31, 2010. Motion passed 7-0.
- H. Land Use Ordinance Amendments: November 2010 Planning & Development Director's introduction of LUO amendments being considered for the November Town Meeting:

- 1. Extension of Village Residential Hamilton Hill to Jackson Lab
- 2. Route 3 Corridor Hulls Cove to first Highbrook Rd.
- 3. Town Hill Corridor Head of the Island to Pine Heath Road
- 4. Streets Update of Standards
- 5. LUO Amendment Process
- 6. Historic Corridor Mount Desert Street
- 7. Wireless Communications MDI High School Area
- 8. Ireson Hill Application of Business Owner
- 9. Hulls Cove Historic

Planning Director gave a brief overview on each of the above proposed articles.

- I. Local Government Collaboration Request of the Southwest Harbor Board of Selectmen for discussion of areas that towns could work together to share or consolidate services. Mr. Paradis, with second by Ms. Eveland, moved to request the League of Towns to organize a meeting of municipal officers to discuss areas that Island towns could work together to share or consolidate services. Motion passed 7-0.
- J. **Property Tax Write-Offs** Request of the Treasurer for authority to write-off any residual tax balances of \$10.00 or less. Mr. Paradis, with second by Ms. Eveland, moved to give the Tax Collector and Treasurer the discretionary authority to write off any residual tax balances up to \$10.00. Motion passed 7-0.
- K. **Treasurer's Warrant** Request of Treasurer to authorize paid bills. Mr. Paradis, with second by Mr. Eveland, moved to sign Treasurer's Warrant for paid bills. Motion passed 7-0.

# VII. COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA

**Mr. Paradis** thanked George Clemens for organizing the Memorial Day celebration.

He noted that after last week's sewer connection appeal, it became clear to him that council needs to evaluate and make changes to the ordinance. He would request an agenda item, in writing, in the near future to propose some of those changes.

He thanked Stephanie Clement, Matthew Horton, Anne Krieg, and Chip Reeves for their work on the Route 3 Task Force. The presence of the MDOT officials here this evening was evidence of their work.

Ms. Eveland encouraged the public to support the Proclamation of National Library Week and to use the library facilities.

**Dr. Disney** created and presented a cartoon of Bar Harbor's strong tax base to counter the Mount Desert Islander OpEd page cartoon.

**Mr. Jordan** suggested that the Council work collaboratively to fill the fifth member seat on the Planning Board.

# VIII. MATTERS FOR POSSIBLE EXECUTIVE SESSION:

- A. Land Acquisition or Disposal Consideration of the acquisition or disposal of real property or rights therein. (To be held in executive session as permitted by 1 MRSA 405.6.C, since premature disclosure of this information would prejudice the competitive or bargaining position of the Town.) Mr. Paradis, with second by Ms. Eveland, moved to go into executive session at 9:03 p.m., following a short break, as permitted by 1 MRSA 405.6.C, since premature disclosure of this information would prejudice the competitive or bargaining position of the Town. Motion passed 7-0. Council and staff consisting of Town Manager, Planning Director and Town Clerk entered into executive session at 9:10 p.m. Council came out of executive session at 10:09 p.m.
- IX. **ADJOURNMENT** Mr. Jordan, with second by Mr. McFarland, moved to adjourn at 10:17 p.m. Motion passed 7-0.

Paul	Paradis,	Secretary

# Memo



To: Town Councilors; Dana Reed

From: Stan Harmon, Finance Director

CC: Department Heads

Date: 4/15/2010

Re: Fiscal Year 2010 – March 31, 2010 – 9 Months Results

# **General Fund**

Attached are the financial results for the 9 months operations of FY 2010 through the end of March. Spending and revenues still indicate that we are tracking a little better than where I normally expect them to be at this time of year. Revenues may exceed the budget by as much as \$100,000 and I am still cautiously optimistic that the expenses will remain below budget by \$50,000+, so the projection is that we are likely to be adding at least \$150,000 to *fund balance* when the year finally closes out.

# Expenditures (75% goal)

The March summary statements show 72.6% spent versus 76.5% of the budget spent last year. There are still no new significant higher spending trends at this point. 75.4% of the \$3.3 million in budgeted municipal wages are spent year-to-date compared to 77.5% in FY2009. Solid Waste and Highway spending are collectively \$70,000 below FY2009 at this time and are also trending similarly below budget.

# Non-Property Tax Revenues (75% goal)

80% of the budget for non-property tax revenues is now collected versus 70% at this point last year. Vehicle Excise revenues continues a slow decrease as drivers hold on to their older vehicles—it is down 2% from last year and is also running just below the level budget target for this fiscal year. There continues to be limited recovery in scrap prices in Solid Waste versus the budget projections. Ambulance runs and the net revenue numbers are now running above target.

Ambulance	Revenues-gross	billing per run	is up 2%
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FY 2010	9 Months YTD Runs Billed	870	Ave. Gross Billing (per run)	\$533
FY 2009	9 Months YTD Runs Billed	830	Avg. Gross Billing (per run)	\$521

FY 2008	9 Months YTD Runs Billed	859	Avg. Gross Billing (per run)	\$508
	-the net revenues achieved per run a	re up 4%		
FY 2010	9 Months YTD Runs billed	870	Net Billing (per run)	\$359
FY 2009	9 Months YTD Runs billed	830	Net Billing (per run)	\$344
FY 2008	9 Months YTD Runs billed	859	Net Billing (per run)	\$348
		3/31/2	010 3/31/2009	
Ambulance A	ccounts Receivable	\$101,0	115,063	
Excise-Motor	Vehicle Revenues- we are still tre	nding dov	vn by 2% on a revenue per vehicle ba	sis
FY 2010	9 Months YTD 3690 units	\$602,3		
FY 2009	9 Months YTD 3662 units	\$609,5	=\$166 / per vehicle	
FY 2008	9 Months YTD 3634 units	\$616,9	•	
			•	

There continues to be a fiscal year to date trend of older vehicles in service—people are holding on to their vehicles a bit longer which causes the decrease of the revenue per vehicle.

New & Transfer	r vehicle regi	strations	(excluding trailers): fytd indic	cates a 2% decrease
March	2010	64	9 Months FYTD- 2010	691
March	2009	67	9 Months FYTD- 2009	710
March	2008	76	9 Months FYTD- 2008	not avail
Vehicle registrat	ions (excludi	ng trailers	)-five newest model years: fytd	shows an 8% decrease
March	2010	134	9 Months FYTD- 2010	1196
March	2009	123	9 Months FYTD- 2009	1272
March	2008	126	9 Months FYTD- 2008	not avail
Vehicle registrat	ions (excludi	ng trailers)	)-six years and older: fytd shows	a 2% increase
March	2010	257	9 Months FYTD- 2010	2319
March	2009	207	9 Months FYTD- 2009	2233
March	2008	215	9 Months FYTD- 2008	not avail
66% of all car/tm	uck registrati	one are ci	iv years and older which are at t	ha laxyagt mill rate in

66% of all car/truck registrations are six years and older, which are at the lowest mill rate in the excise statutes. In model year one the mill rate is .024 per \$1000 value and drops down each year to .004 in year six.

<u>Recreational</u> registrations (# of boats, snowmobiles, atv's): although there is no significant revenue that comes to the Town on these items, the number of <u>active</u> registrations can be an indicator of local economic trends. In this case we are up 19% over last year and 2 years ago.

- 9 months	March FYr-to-date 2010	352
- 9 months	March FYr-to-date 2009	297
- 9 months	March FYr-to-date 2008	299
- 9 months	March FYr-to-date 2007	339

Building Permitting Revenue-gross and net revenue per permit are now up

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FY 2010	9 Months YTD	264 permits	\$97,319	=\$368 / permit
FY 2009	9 Months YTD	173 permits	\$61,473	=\$355 / permit
FY 2008	9 Months YTD	309 permits	\$81.595	=\$264 / permit

# **Capital Improvement Fund**

The "spending" below does not include all the outstanding purchase orders. Carryover from FY'09 unfinished projects are included in the estimated "authorized" column but it does not include CIP funds set aside for FY'11 purchases and beyond. "Authorized" only includes construction, vehicles & equipment, etc., and excludes debt service.

	<b>Authorized Spending</b>	Cash Spending	3-31-10
Town	\$2,500,000	\$1,191,802	48%
School	\$ 140,000	\$ 85,849	61%

# FY '10 Previously Authorized Council Budget Adjustments or Transfers:

Contingency	Fund	Activity	for FY	10

Beginning I	Balance	(Town Meeting Approval)	\$53,366
Min	utes-3/16/2010	#1022-5376-Technology-Ethics program	-\$ 3,000
Min	utes-3/02/2010	#1034-5432 -Legal costs-Planning	-\$25,000
Ending Bala	ance	@ 3/31/10 -available #1036-5906	\$25,366
Ger	neral Fund Tra	nsfers or Adjustments to Budget:	
Increase:	Exp #1077-562	24 Hiway Gravel (Minutes 11/17/09)	\$ 7,112
Increase:	Exp #1077-51	10 Hiway OT wages	\$10,000
_	- 11		+

Increase:	Exp#10//-5110 Hiway O1 wages	\$10,000
Increase:	Exp #1061-5310 Glen Mary Cleaning	\$ 2,000
Increase:	Exp #1061-5424 Glen Mary Chlor & Sup.	\$ 2,000
Increase:	Exp #1061-5602 Glen Mary Bldg Repairs	\$ 1,375
Increase:	Revenues #1092-4232 – FEMA Grant	(\$22,487)
Increase:	Exp #1022-5700 Computer Equipment (Minutes 12/1/09)	\$ 2,000
Decrease:	Exp #1012-5100 Manager's Wages	(\$ 2,000)
Increase:	Exp #1035-5846 Econ Dev Travel Exp (Minutes 1/5/10)	\$ 1,500
Decrease:	Exp #1035-5356 Econ Dev Cont Serv	(\$ 1,500)

# Capital Improvement Transfers/Adjustments:

From: Cip	Undesignated #2182-6190 (Minutes 10/06/2009)	(\$31,000)
To: Mur	ni Bldg Renovations #2124-6130	\$31,000
Increase:	CIP Roads #2177-6420 (Minutes 11/17/2009)	\$31,419
Increase:	CIP Revenues-FEMA Grant #2182-4232	\$31,419

# **Property Tax Collection & Receivable Update:**

Outstanding <u>current year's</u> taxes at the end of March, as a percent of total uncollected, remain higher than the uncollected rate of last year (11.5% compared to 9.9%). In dollars, the Town is approximately \$200,000 behind last year's collections at this point.

Tax	Property Ta	axes	@ 3/31/10		@ 3/31/09	9
Year	Outstandin	g Balance	<u>%</u>	Ba	lance	%
2002	\$	342	0.0%	\$	342	0.0%
2003	\$	1,024	0.1%	\$	1,024	0.1%
2004	\$	1,401	0.1%	\$	1,964	0.1%
2005	\$	3,429	0.1%	\$	5,309	0.1%
2006	\$	11,227	0.1%	\$	14,782	0.2%
2007	\$	21,851	0.2%	\$	138,014	1.2%

2008	\$ 235,685	1.9%	\$ 1,222,725	9.9%
2009	\$ 1,480,270	11.5%		

# Cash Investment and Status Report / Banking

On March 31st, the Town had \$7,110,000 on hand in all funds—approximately \$90,000 less than last year's total balances at this same time period. Checking interest rates provided by *Bar Harbor Banking and Trust* remain at 1.50% vs. 2.05% last year.

# **Wastewater Division Fund**

# Financials (75% - 9 month Benchmark)

Spending numbers show the following:	<b>Budget</b>		3/31/10	
Operations & Maintenance: FY'10	\$1,102,284	Actual	\$777,871	71%
(FY '09 Exps. for comparison)		Actual	\$831,671	78%
		3/31/10	3/31/	09
Sewer Accounts Receivable		\$67,493	\$418.	074

40 liens were placed in March on the Oct. 1, 2009 billing versus the 26 liens placed from the year before from the Oct. 1, 2008 billing.

Sewer Connection Fees – (reflects building construction on the sewer grid)

FY2010	9 months thru March	\$40,389
FY2009	9 months thru March	\$28,503
FY2008	9 months thru March	\$64,509

# **Water Division Fund**

# Financials (75% - 9 month Benchmark)

Spending numbers show the f	following:	<b>Budget</b>		3/31/10	
Operations & Maintenance:	FY '10	\$873,881	Actual	\$603,685	69%
(FY'09 Exps for compar	rison)		Actual	\$573,395	75%

3/31/10	3/31/09
\$11,608	\$13,282

With an active service "shut off" program for delinquent accounts the outstanding receivables are very low.

Monies Water Fund owes to General Fund	@3/31/2010	\$948,000
	@3/31/2009	\$527,000

The annual PUC report was filed in March. This extensive report details operational statistics as well as complete financial disclosure on the Water Division's 2009 calendar year results. This report is now available *on line* in the Water Division section of the web site.

# Technology

In March, Steve Cornell assisted in researching replacement software for Code's BMSI<sub>A</sub> did the final testing for FormsManager program to use for Dog licenses, performed various PC repairs at Dispatch, began implementing the new RCM communication system for Police and Fire that is funded by the HLSGrant—a major March effort! He also copied many dvd's for the Appeals Board, worked on the logistics of the Water Division building move, installed Windows 7 on the first PC in finance, installed printer drivers on tablets for printing at other locations (such as the Hospital) for Ambulance, trained for two days on the Peoples GIS

system and attended department meetings on the same subject, attended a tech conference in Augusta hosted by MMA and attended two meetings in Bangor on the Cable Consortium.

# **Assessing**

Steve Weed's March report in Assessing reflects their preparatory work for the spring field review to establish final valuations as of April 1, 2010. Also, the assessors finished the preparation of hundreds of personal property declarations and mailed those out.

# **Board of Assessment Review**

The one residential shorefront appeal of an abatement request was heard by the Board on March 23<sup>rd</sup>. The final decision was rendered by letter on March 25<sup>th</sup> as the Board denied the appellants appeal, basically upholding the reasonableness of the Assessor's valuation. The "appeal" window has not closed yet for this tax year as there also have been recent denials of abatement requests for certain hotel properties that are still in that appeal window. These hotel properties in question were not adjusted as part of the *residential* shorefront revaluation this past fall.

# **Bond Financing**

The Town is moving ahead on its bond financing and is scheduling a late May sales date. Because some of the road construction projects have been pushed out a few years due to the re-scheduling of certain coordinated CSO Wastewater work, the present bond sale will be approximately 85% of the total amount authorized. The balance will likely be borrowed a couple years out. However, 100% of the Water main replacement monies will be borrowed and most assuredly spent.

Town of Bar Harabor YTD March 31, 2010 75.0% - 9 Months

<u>Department</u>	₩	Budget FY'10 12 Months	ol	Actual FY'09 9 Months	(2)	Actual FY'09	Bud. Var. <u>Favorable</u> (Unfavorable)	% Rev's Received 67% Goal	Variances From Budget Goal <u>Comments</u>
Town Clerk Fees Finance Department	ម ម	22,915 152.802	ഴ ഴ	15,222	မှာ မှာ	23,371	(1,964) (1,828)	66% 74%	timing
Municipal Building	↔	29,472	↔	24,306	↔	30,529	2,202	82%	higher trend
Code Enforcement Permits	↔	124,744	↔	135,973	↔	110,332	42,415	109%	JaxLab & YoungsPier permits
Planning Fees	↔	21,180	↔	18,939	↔	27,034	3,054	%68	
Ambulance/Fire Fees	↔	401,178	↔	312,002	↔	387,504	11,119	%82	on target
Police Department	↔	62,437	↔	77,361	↔	75,897	30,533	124%	higher trend-Pkng Tic's
Harbor Department	᠌	434,299	ᡐ	382,286	$\Theta$	223,535	56,562	88%	seasonal - timing
Parks & Recreation	ᡐ	640	↔	400	↔	900	(80)	63%	
Highway Division	σ	8,268	↔	8,275	↔	8,680	2,074	100%	timing
Solid Waste-Recycling	$\Theta$	12,700	↔	45,621	↔	60,636	36,096	328%	higher trend-price recovery
Departmental	ક્ક	1,270,635	↔	1,133,159	↔	1,097,440	180,183	%68	
P.I.L.O.T.'s	ઝ	93,100	ᡐ	101,147	ઝ	94,083	31,322	109%	100% PILT's rec'd
Interest Income	᠌	117,000	↔	56,631	↔	104,365	(31,119)	48%	timing & lower interest
Unclassified	᠌	91,180	↔	92,300	↔	94,893	23,915	101%	timing
Excise & Other Taxes	ᡐ	920,196	↔	633,136	ᡐ	917,346	(57,011)	%69	lower trend
Intergovernmental	ь	437,212	$\Theta$	317,382	ᡐ	505,003	(10,527)	73%	
Revenues-Subtotal	↔	2,929,323	ઝ	2,333,755	₩	2,813,130	136,763	%08	
Property Taxes		12,762,312	8	12,977,886	8	2,267,358	215,574	102%	tree growth penalty
Transfers In-Other Funds	↔	3,944	↔	s	↔	5,115	(3,944)		
Beg Fund Balance Used	↔	ı	↔	ı	↔	ı			
Grand Total-General Fund	ès-	15,695,579	\$	\$15,311,641	\$	\$15,085,603		%9'.26	
	e	7000	E	0.70	e	7007		/0/3	: : : : : : : : : : : : : : : : : : :
Wastewater Revenues	A 6	4,007,234	A 6	1,310,600	9 6	1,957,900		71%	2 Otto 8 concords billed
water Kevenues	A 6	1,502,192	A 6	910,020	A 6	1,444,190		9/ - /	S Ques & seasonals pined
CIP Fund Rev's/I ransters	æ	6,066,225	Ð	8/6,989	Ð	1,655,542		14%	No bond proceeds filed for yet

Town of Bar Harbor

Expenses - Period Ending 3/31/2010 75% of Year Completed

07_Anr_10						5	'5% or rear completed	nered			
			⋖		۵		O	۵	Ш		
Gonoral Fina	Dept		FY '10		FY '10	•	FY '09	Bud Variance	% Spent	FY '08	Comments
General Tuliu		} ?	Budget	}	Actual	<b>}</b>	Actual	Col. A-B	or budget (B/A=E)	Actual	on variances
Town Council	10	<b>⇔</b>	40,211	↔	20,008	s	36,924	10,150	49.8%	\$ 42,424	timing
Town Manager	12	<b>G</b>	113,957	<b>G</b>	85,363	s	109,467	105	74.9%	\$ 102,303	•
Town Cierk	14	<b>G</b>	109,985	₩	84,131	↔	104,890	(1,642)	76.5%	\$ 94,410	
Finance Dept.	16	s	291,286	₩	224,348	₩	289,014	(5,884)	77.0%	\$ 281,942	
Town Attorney	18	s.	20,858	↔	11,914	ᡐ	117,216	3,730	57.1%	\$ 148,410	timing
Elections	20	\$	13,477	₩.	2,656	₩	17,187	7,452	19.7%	\$ 12,391	timing
Technology	22	↔	95,500	₩	73,616	₩	101,134	(1,991)	77.1%	\$ 82,370	timing
Municipal Building	24	\$	92,566	₩	58,936	<b>6</b>	93,330	10,489	63.7%	\$ 81,560	timing
Town Offices	56	↔	33,532	₩	27,256	↔	32,200	(2,107)	81.3%	\$ 33,354	timing
<b>Employee Benefits</b>	28	<b>⇔</b>	1,129,889	₩	804,619	↔	1,043,152	42,798	71.2%	\$ 1,006,456	under budget
Code Enforcement	30	<b>G</b>	90,422	₩	55,529	₩	55,087	12,288	61.4%	\$ 57,778	timing-Legal
Assessing Dept.	32	s	135,369	₩	98,976	↔	130,573	2,551	73.1%	\$ 112,457	
Planning Dept.	34	↔	337,794	₩	220,542	₩	281,635	32,804	65.3%	\$ 240,991	timing
<b>Economic Develmnt</b>	35	<b>⇔</b>	61,051	₩	56,384	₩	•	(10,596)	92.4%	ı ب	timing
Miscellaneous	36	↔	257,947	↔	236,394	₩	207,245	(42,934)	91.6%	\$ 231,295	abatements
Ambulance	40	₩.	370,688	₩	284,780	₩	347,119	(6,764)	76.8%	\$ 343,794	
Fire Department	42	s	302,482	₩	223,290	₩	288,275	3,572	73.8%	\$ 275,456	
Hydrant Rentals	42	₩	346,883	↔	260,244	↔	322,757	(82)	75.0%	\$ 298,522	
Police Dept.	45	s	789,049	₩	579,038	ዏ	683,501	12,749	73.4%	\$ 669,983	
Dispatch Division	47	S	185,304	₩	141,623	↔	171,225	(2,645)	76.4%	170,904	
Public Safety Bldg.	49	s	37,975	↔	22,546	<del>⇔</del>	53,543	5,935	59.4%	\$ 35,450	timing
Street Lights	51	s	72,310	₩	57,050	↔	77,758	(2,818)	78.9%	5 75,231	
Harbor Dept.	53	S	105,951	↔	69,284	s	108,453	10,179	65.4%	\$ 104,000	timing
Parks & Recreation	29	S	196,344	↔	154,159	s	207,469	(6,901)	78.5%	\$ 210,456	timing-seasonal
Glen Mary Park	61	S	21,267	S	13,613	<del>()</del>	13,502	2,337	64.0%	13,398	timing-seasonal
Emergcy & Gen Assist	99/69	S	6,265	↔	5,036	<del>()</del>	4,493	(337)	80.4%	\$ 1,876	
Cooperatng Agency	89	S	38,229	↔	38,229	↔	45,543	(9,557)	100.0%	\$ 44,640	
Comfort Station	20	s	56,125	↔	36,963	s	55,946	5,131	62.9%	54,847	timing-seasonal
Public Works	75	S	146,552	↔	108,413	₩	138,924	1,501	74.0%	\$ 127,663	
Highway Dept	77	S	1,025,775	↔	720,082	↔	1,004,703	49,249	70.2%	1,049,622	lower trend
Solid Waste	4	S	569,004	↔	371,796	↔	549,790	54,957	65.3%	5 535,794	lower trend
Debt Service	84	S	13,551	<del>()</del>	12,580	<del>()</del>	39,708	(2,417)	92.8%	\$ 42,759	
<b>General Fund Totals</b>		s	7,107,598	₩.	5,159,398	<b>&amp;</b>	6,731,763	\$ 171,301	72.6%	\$ 6,582,536	
payroll periods			26		20		26		%6.9%	26	

<sup>\*</sup>Note-Original FY'10 Budget has been adjusted upward to include \$45,497 for '09 encumbrances and for \$22,487 received from a Nov. FEMA grant approved by T.C.

# TOWN OF BAR HARBOR CASH / INVESTMENT STATUS @ MARCH 31, 2010

	Note	Bank	Acct. No.	Purchase	Maturity	Interest Rate	Amount
**CHECKING	ACCOUNTS						
	WATER	BHBT	77548556	Fed Funds Rate (less 12 bs	pts adjstd gtrly)	1.50%	\$ 9,625
	GENERAL	BHBT	77548521	Fed Funds Rate (less 12 bs		1.50%	\$ 3,088,356
	SEWER	внвт	77548513	Fed Funds Rate (less 12 bs	pts adjstd qtrly)	1.50%	\$ 706,486
		Total Checkin	g Accounts	1.50% floor provided by BH	IB&T		\$ 3,804,467
**CERTIFICAT	ES OF DEPO	SIT: money ma					
	Gen Fnd	The First	14 months	27-Feb-09	27-Apr-10	1.83%	\$ 82,844
	Gen Fnd	The First	14 months	07-Jan-10	07 <b>-M</b> ar-11	1.65%	\$ 103,926
	Gen Fnd	BHS&L	1 Year	26-Jun-09	26-Dec-10	2.25%	\$ 103,299
	Gen Fnd	BHS&L	2 Years	31-Oct-08	31-Oct-10	3.25%	\$ 103,791
	Gen Fnd	MSB	11 Months	25-Nov-09	25-Oct-10	3.20%	\$ 106,808
	Gen Fnd	MSB	12 Months-CDARS	21-Jan-10	21-Jan-11	1.25%	\$ 232,822
	Gen Fnd	UTC-Camden	12 Month CD	11-Feb-10	11-Feb-11	1.35%	\$ 103,617
	Gen Fnd	UTC-Camden	11 Month CD	10-Sep-09	06-Aug-10	0.75%	\$ 103,663
	Gen Fnd	UTC-Camden	1 Year-CDARS	02-Apr-09	02-Apr-10	1.98%	\$ 226,337
			Total Certificates o	f Deposit			\$ 1,167,107
CIP Reserves	s: Bar Harbo	or Banking &	Trust - Trust Depa	ırtment			
GENERAL-	COMB-comb	-		Money Mkt Funds Sweep		0.10%	\$ 359,735
02.12.012		ne Loan Bank		Gov. Spons. Enterprise	6/11/2010	4.25%	\$ 201,562
		oan Mtg Corp.		Gov. Spons. Enterprise	3/3/2011	4.10%	\$ 258,328
	HSBC Finan			AA3 Corp. Note	9/15/2010	5.07%	\$ 254,138
		of New York		AA Corp. Note	5/14/2011	5.02%	\$ 317,181
	Toyota Moto			Corp. Note	5/18/2011	5.45%	\$ 261,235
	Wrigley WM	•		Corp. Note	7/15/10	4.30%	\$ 301,815
WASTEWA	TER-			Money Mkt Funds Sweep		0.11%	\$ 184,295
		Total In Trust	Fund				\$ 2,138,288
		rotar iir riust	, und				 _,,
	TOTALS: A	II CASH & INVE	STMENTS				\$ 7,109,862

Notes:

Checking Accounts and money markets above \$250,000 are protected by Bar Harbor Bank's collateral (US Gov't or agency securities) that are held in joint custody at the Federal Reserve Bank of Boston.

AA-stable

COMB = Combined School/Gen Fund/CIP Cash Accounts

SWR = Sewer Fund WTR = Water Fund

Town's Bond Rating:

Affirmed JAN '05 Moody's Α1 JAN '05 S&P Affirmed AA-MAR '08 S&P Reviewed State of Maine Bond Rating: May '08

S & P

Maine Bond Bank Rating AAA BHBT = Bar Harbor Bank & Trust Co.

The First = First National Bank Of Damariscotta

UTC = Union Trust Company and now Camden National Bank BHS&L = Bar Harbor Savings

& Loan Co.

MSB = Machias Savings

# Memorandum

To: Stan Harmon, Finance Director

CC:

From: Steven Weed, Assessor

**Date:** 4/12/2010

**Re:** March Month End Report



# **Selected Statistics**

	MTD	YTD FY10	YTD FY09	CHANGE	
Value Changes:					
Abatements	\$ 224,200	\$8,526,510	\$3,531,750	\$4,994,760	141%
Supplements	\$ 	\$810,200	\$1,234,200	(\$424.000)	-34%
Net Change	\$ (224,200)	(\$7,716,310)	(\$2.297.550)	(\$5,418,760)	-176%
			_		
Field Work:					
Site Visits	45	312	231	81	35%
Miles Traveled	273	3,486	4,257	(771)	-18%
MISC:					
Deed Changes	32	254	229	25	11%
Map Changes	25	940	174	766	440%
E911 Changes	72	237	260	(23)	-9%

In March we had a Board of Assessment review hearing for a residential shorefront property on Indian Point. This is the first BAR hearing held in ten years. With a vote of 3-0 the Board denied the applicant's request for abatement. The applicant now has 30 days from the date of that decision to appeal to superior court.

This month we also worked with a representative from Acadia National Park to finish the E911 address for structures in the park. This work included naming all roads in the park, and assigning address points to structures that have land lines, pay phones and

other public areas, such as Sand Beach. These new address locations have been added to the master address table and are available through the PeopleGIS system.

Work continues on the spring review. The fieldwork was started toward the end of March and will continue through April. The personal property declaration letters were also prepared and mailed out.

Steve

# Manager's Memo

To: Bar Harbor Town Council

cc: Department Heads

From: Dana J. Reed, Town Manager

Date: April 16, 2010

Re: Town Council Meeting of April 20

### CALL TO ORDER - 7:00 P.M.

## **Excused Absences**

At this time, no Councilors have advised me that they will be unable to attend the meeting. However, should an absence occur, it would be appropriate to pass a motion to excuse as provided by Town Charter section C-12.B(1)(d).

# FINANCIAL STATEMENTS

Overall, I'd say that Town finances are looking more hopeful than they have in years. Finance Director Stan Harmon's extensive financial report is enclosed, but I thought it might be helpful for me to touch on a few of the high points. Revenues are slightly exceeding the FY10 budget, and expenses are slightly under budget, leading to Stan's speculation that we should end the fiscal year by adding about \$150,000 to fund balance this June. While that certainly is a lot of money, please keep in mind that it is still less than 1% of our total revenues and/or expenses. Most private businesses would be overjoyed to see their financial results come that close to projections.

Stan's monthly reports also give us an excellent window into the local economy. Although many of our citizens have postponed replacing their cars and property tax receivables have increased by a modest 1.6%, most other economic trends are looking up. Ambulance, water and sewer accounts receivable have all improved, and the latter dropped dramatically. Sewer connection fees have nearly doubled, building permit values for the last nine months are up 58% over the same period a year ago, and the number of building permits rose 53%. Recreational vehicle registrations (boats, snowmobiles and ATVs) are up 19% over last year.

I am cautiously optimistic that we may be seeing a light at the end of the economic tunnel. Keep your fingers crossed!

#### CONSENT AGENDA

A single vote has been scheduled to approve the following items of business without discussion, unless individual agenda item action is requested by a Councilor. I respectfully suggest passage of a motion to approve all items on the consent agenda as published.

# Town Meeting: June 2010

At Tuesday's meeting you are scheduled "to approve and sign the Annual Town Meeting Warrant and Notice of Public Hearing". All totaled, these documents contain about 170 pages. Since Council has seen and approved almost everything in these documents, we've decided not to kill yet another tree, but to try posting them on the town website. If you'd like to receive a hard copy of the draft Warrant, please contact Town Clerk Pat Gray, but if not, you can view it at <a href="http://www.barharbormaine.gov/xhtml/118/Permalink/282/">http://www.barharbormaine.gov/xhtml/118/Permalink/282/</a>.

#### Taxicabs/Bus Permit Renewals

Clare Bingham has applied for renewal of nine taxicab permits for her At Your Service Taxi – company. William Sweet has applied for renewal of four trolley permits for Oli's Trolley Inc., operating as Acadia Island Tours. The consent agenda suggests a motion "to approve as submitted the taxicab and bus permit applications of At Your Service Taxi and Oli's Trolley, Inc: Acadia Island Tours".

#### PUBLIC HEARINGS

# **Special Amusement Permit**

We have received an application from The Fish House Grill, One West Street, for renewal of a Class 3a permit. Police Chief Nate Young has no concerns about this application. Assuming that none are broached at the public hearing, I respectfully suggest passage of a motion to approve the Class 3a special amusement permit for The Fish House Grill as submitted.

#### **REGULAR BUSINESS**

### **Committee Consultations**

Council has established a schedule for consultation with nearly all Town boards, committees, task forces, commissions and other Council-appointed groups, with the goal of improving communications and assisting them with reaching their own goals. The Conservation Commission is on a quarterly consultation schedule and last met with you on January 5. The Scenic Byway Corridor Management Committee is on a semi-annual consultation schedule. Their chair, Anne Krieg, last met with you on October 20. No action is required.

## **Cruise Ship Committee:**

#### **Harborview Park**

Back in August, Council voted "to endorse the idea of relocating the information area located in the two western parking spaces in front of Harbor Place to Harborview Park with the addition [of] the information kiosk at this new location as presented. Further, to direct staff to continue seeking approval from Land & Water Conservation Fund at the Maine Department of Conservation, seek approval from the Design Review Board if needed, and to refer this item to the Parks & Recreation Committee for their approval". Parks & Rec has discussed this question twice, culminating with a split decision (3-2), "to recommend to the Town Council that the Parks and Recreation Committee work with the Cruise Ship Task Force and the Town Council on the design and location of an information kiosk in Harborview Park".

Councilor Paradis, as the chair of the Cruise Ship Committee, has presented Council with a request to authorize the Cruise Ship Committee to meet with the Parks & Recreation Committee to discuss their proposal to place an information booth in Harborview Park.

# **Community Survey**

The second item brought to you by the Cruise Ship Committee appears to require no action, but is merely an update on the committee's plans to conduct a community survey of attitudes and opinions on cruise ship issues.

# FY10 Budget Transfer

the Town Hill Playground is complete, with \$1,837 of donations remaining in the Town Treasurer's balance sheet account. The Parks and Recreation Committee has requested that this amount be transferred to the Capital Improvement Program's Park Equipment account, which would make it available for use in any town park. This request seems reasonable and I respectfully suggest passage of an Order that the Treasurer transfer \$1,837 to CIP Park Equipment Reserve budget account #2159-6312 from the remaining Town Hill Playground donations for the purpose of future upgrades to the equipment.

# **Consent Agreement Policy**

Over the years it seems we have been getting more and more requests for settlement of outstanding Land Use Ordinance violations through the use of Council-approved consent agreements. I have used a standard operating procedure as a general guide for myself, staff and the public, but it has never been formally endorsed by Council. Since I have been told that we have yet another request coming, I presented this concern to you on March 16 for discussion of the pros and cons of adopting a formal Council Policy on code enforcement Consent Agreements. Your action "to direct staff to further refine the Consent Agreement Procedure to reflect: (1) admission that the violation does in fact exist and (2) why a negotiated settlement is in the best interest of the Town and to return to Council with a draft prior by May 4, 2010." Since I will be on vacation for that Council meeting, I have prepared the enclosed draft for your consideration at this time. The intent of this policy is to give somewhat flexible guidance to staff on how we should process requests for consent agreements so that you have what you need to see when the request first appears on your agenda. I look forward to hearing your thoughts on the enclosed draft and respectfully suggest passage of a motion on your suggested changes. It would be my intent to edit the policy as you direct and place it on the consent agenda for final approval at your May 4 meeting.

# Treasurer's Warrant

I respectfully request passage of a motion, to sign the Treasurer's Warrant for paid bills.

**ADJOURNMENT** 

See You Tuesday!

#### **MEMORANDUM**

TO: DANA J. REED, TOWN MANAGER AND SANDY MCFARLAND,

TOWN COUNCIL CHAIR

FROM: PAUL PARADIS, CRUISE SHIP COMMITTEE CHAIR

CC: ANNE KRIEG, CRUISE SHIP COMMITTEE VICE CHAIR/TOWN

PLANNER

DATE: 4/15/2010

SUBJECT: CRUISE SHIP COMMITTEE UPDATE TO COUNCIL

Please consider this memorandum as a request for an item on the next Town Council agenda for a short update from the Cruise Ship Committee.

On August 4, 2009 the Cruise Ship Study Task Force recommended to the Town Council that the cruise passenger information area, located in the two western parking spaces in front of Harbor Place, be moved to an information kiosk to be located in Harborview Park. During that meeting, the Town Council took action to endorse this idea and referred this item to the Parks & Recreation Committee for their approval.

Shortly after the above Council action, the Parks and Recreation Committee addressed the placement of the kiosk in Harborview Park. Based on the March 16, 2010 report to Council from the Parks and Recreation Committee, the Parks and Recreation Committee indicated that there were some unresolved issues related to the use of Harborview Park for this purpose. The Cruise Ship Committee requests authorization to meet with the Parks and Recreation Committee to discuss and try to resolve the issues. On March 25, 2010 the Cruise Ship Committee took action to create a subcommittee comprised of Chris Fogg, Anne Krieg, Paul Paradis, and Bob Bahr to discuss and resolve these issues with the Parks and Recreation Committee should the Council honor this request.

Also on March 25, 2010, the Cruise Ship Committee took action to finalize a cruise operations survey for residents and businesses. A copy of the survey questions is attached to this memo. The Bar Harbor Chamber of Commerce will be hosting the survey on their website. The public will be made aware of the survey through the Chamber mailing list, the Town website, local media, and signage visible to the public during the Town election. The Cruise Ship Committee hopes to use information gained from this survey during its annual review of cruise operations.

The Cruise Ship Committee looks forward to elaborating on its request and answering any questions the Council may have. Thank you for your consideration of this agenda item.



# Parks and Recreation Committee

# Regular Meeting Minutes, October 5, 2009; 5:00 PM Council Chambers

### ITEM 1

**CALL TO ORDER:** 5:04 PM – The meeting was called to order by Committee Vice Chair Jeff Dobbs. Committee members present were Kim Harty, Deborah Page, John Kelly, Martha ("Marty") Williams, and Committee Liaison Chip Reeves. Also in attendance were Planning Director Anne Krieg, Chris Fogg of the Chamber of Commerce, and Sherry Rasmussen.

#### ITEM 2

**WELCOME TO NEW COMMITTEE MEMBER – Kim Harty:** The Committee welcomed Kim Harty, who has joined to fill the vacant seat that expires June of 2010. Ms. Harty may consider to continue at that time.

It was noted that, going forward, the welcome to new Committee members would appropriately be scheduled as a regular business item of a meeting.

### ITEM 3

**APPROVAL OF AGENDA:** Mr. Reeves requested an amendment to the Agenda to add Item 5.D. to discuss the FY11 Capital Improvement Program (CIP) budget; Ms. Page requested an amendment to the Agenda to add Item 5.E. to address a skatepark clarification. Ms. Page moved, with second by Ms. Harty, to approve the Agenda as amended; motion passed (4-0).

#### ITEM 4

**APPROVAL OF MINUTES:** Mr. Kelly moved, with second by Ms. Page, to approve the September 21, 2009, Minutes as written; motion passed (4-0).

(For clarity to these Minutes, a voting Committee member arrived early-discussion of Item 5.A.)

# ITEM 5 REGULAR BUSINESS

# A. Anne Krieg, Planning Director: Proposed Kiosk for Harborview Park.

Ms. Krieg and Chamber of Commerce Executive Director Chris Fogg attended to propose the installation of a portable information kiosk at Harborview Park to assist cruise ship passengers and other visitors in the area. The proposal is based on the needs identified by the cruise industry and is targeted for next season (May through October). This is a partner-ship project of the Cruise Ship Task Force, the Town, and the Chamber of Commerce aimed at enhancing services in the area. Funding for the kiosk would be derived from cruise ship fees.

In addition to a welcome center located at the corner of Main and Cottage Streets, the Chamber has been staffing a tent on cruise ship days, using two parking spaces, at the top of the cruise ship passenger ramp on West Street. The tent covers two people and plastic folding tables with information. This arrangement causes congestion for pedestrian and vehicle traffic. Currently on cruise ship days, cabs are stationed at four of the six parking spots along Harborview Park while their drivers seeking customers. Busses are queued up around Agamont Park across the street. The proposed kiosk is designed to provide information, such as cruise ship schedules and walking maps, and to move pedestrians toward their destinations. The kiosk would be staffed on cruise ship days only; approval for full time staffing is being sought.

A sketch and site map were provided to the Committee. The structure would be six feet wide by six feet long, approximately seven and a half feet high, and would have sliding panels along the walls; the size allows for material storage. There would be no utilities. The Chamber would be responsible for maintenance and for moving the structure.

Committee discussion followed. Mr. Dobbs considers that the tent situation is a mess, that people need to be moved over to the Harborview Park area, and that the kiosk is a great idea. He said he would not want it at Agamont Park or the Village Green. He added that Harborview Park will always have some stress on it because of its proximity to the receiving area for cruise ship passengers.

Ms. Williams stressed that the Parks and Recreation Committee works hard to keep commercial interests out of the parks, but feels that the philosophy is not well maintained when allowances are made and unapproved liberties are taken. She referred to the recent festivities surrounding the docking of the cruise ship Queen Victoria and the presence of a bag piper who was set up on the Village Green with an open case to receive donations. She added that similar interests have been denied park use applicants who sought to raise funds in the park. Mr. Fogg expressed regret concerning the bag piper; that performances and solicitations were not intended.

Mr. Kelly said he has the same concerns in putting a substantial structure in that location for the proposed purpose and for such a significant amount of time; it introduces a temporary situation that could expand and once granted, is very hard to remove. He admitted that while he does not know the best location for the kiosk, he stressed that the Committee is not charged with serving the cruise ship industry or its task force, but rather is charged with protecting that small space. He is not in favor of attracting lines of people who will block the views for park users and regards the kiosk and lines of people as an inappropriate use of the area. This use would not serve the enjoyment of the park. He does not intend to be uncooperative or to not see the greater plan, but is protective of the small area. He agrees on the poor aesthetics of the tent and the effort to find a better alternative to that.

Ms. Page suggested a trial period for the kiosk at Harborview Park. If the arrangement is considered unsightly and creates long lines of people, the Committee would re-evaluate. She likes getting the tent out of the area, moving congestion along, gaining the parking spots, but thinks there might be a less invasive location.

Ms. Harty explained that as a newcomer to the area, she is not aware of the best site for the kiosk. She likes the concept and thinks it would look better than the tent. She asked if other areas have been considered. Ms. Krieg responded that the area near the comfort stations to be constructed on Newport Drive might be appropriate.

Mr. Dobbs moved to approve the location of the kiosk at Harborview Park; the motion was not seconded.

Mr. Kelly moved to not approve the location of the kiosk at Harborview Park; the motion was not seconded.

Ms. Krieg recommended that Committee members visit the area on a day when two cruise ships are in harbor and to watch the activity.

Mr. Kelly withdrew his previous motion and moved, with second by Ms. Harty, to continue the discussion to the next meeting after members have viewed the area when two cruise ships are in harbor; motion passed (5-0).

# B. Sculpture Fundraising: Next Steps and Thank You Notes.

Some Committee members have done their homework on solicitations with some success; nearly \$5,000 of the \$8,000 have been raised to date. Some follow-up and initial contacts will be made:

- Ms. Page will provide sculpture symposium reading material to the new owner of Café Milagro and will contact Eden Rising;
- Mr. Dobbs will contact Cadillac Mount Sports;
- Ms. Williams will contact Union Trust
- Ms. Rasmussen will contact Bar Harbor Bank & Trust (Cheryl Curtis), The First (Tony McKim), and Merrill Bank (Matt Horton). She is waiting on responses from two bed and breakfasts.

Ms. Rasmussen is working with sign maker Jon Mohr on a sign with a thermometer theme. If she can supply the stakes and boards, Mr. Mohr will donate everything else. She is completing the design review board application that is due by October 15 in order to seek approval on October 22. Ms. Rasmussen indicated she has lots of photographs of the sculpture. Ms. Williams extended appreciation for her work.

Public Works staff will generate address labels and a thank you letter for Chair Williams signature.

Mr. Reeves reported that relative to the sign installation is the Federal Street reconstruction project scheduled to begin this fall. The front of Barker Park is where the sign would go. The materials for the reconstruction project will be stored in the back of the park. The design work is nearly complete with specifications bid to go out in January. The sidewalk levels to the park would be known by then. Mr. Reeves has contacted Jesse Salisbury of the sculpture symposium to determine the base for the sculpture.

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designer; decisions regarding infield areas would be needed. The park would be closed for an entire year. In addition, there are moving pieces (i.e., addition of a skate park). The original design for the temporary skate park ramp was to bring in material which would help with the drainage. The current idea is to put the ramp on posts.

A representative of the Acadian Little League (ALL) should be invited to meet with the Committee to discuss a unified plan from ALL to see what the needs are and the plan for the ALL snack shack proceeds. Simple dugouts for sun protection for little leaguers might be a target for refreshment sales.

The tennis courts in are good repair. In about four years, the area would be resurfaced and the condition of the net and fence posts evaluated.

<u>Village Green</u>: The bandstand is in disrepair. The request for proposals for the design and construction would be issued in spring 2010. Mr. Dobbs offered that in 1972, Brian Hamor poured the slab and the bandstand was built from the original design. He suggested that the Bar Harbor Historical Society might have drawings of a basic village bandstand.

Harborview Park: The boardwalk needs to be redone.

Glen Mary Wading Pool: Work remaining on this project is to repaint the bottom and to resurface the walkways surrounding the pool.

<u>Park Street Playground</u>: This area is heavily used and needs attention. The playground equipment needs to be upgraded. Mr. Reeves suggested that the Committee would be better served to develop a plan. After discussion, he indicated he would regard improvements to this park as a new project and would request \$5,000 to design and develop a scope. Mr. Kelly said he would defer to Mr. Reeves' recommendation and to get the project on the radar screen. Ms. Harty agrees with what moves the project forward and indicated that financial help could be requested from the MDI YMCA.

<u>Planted Area Maintenance</u>: This contract is being put out to bid this year. Ms. Williams remarked that the planters have looked very nice. Mr. Reeves said there will be added grounds maintenance monies requested for work at the head of the island, as a result of the recent Maine Department of Transportation Route 3 redesign in that area.

<u>Park Signage</u>: The completed signs will be installed at Agamont Park and the Village Green under the operational budget. It was suggested to add as a future agenda item a sign for Hadley Point Beach that is similar to the signage in other Town parks.

# C. Anne Krieg, Planning Director: Proposed Kiosk for Harborview Park.

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Ms. Krieg and Messrs. Paradis and Fogg attended to support the proposed installation of a portable information kiosk at Harborview Park. Since the kiosk discussion at the October 5 Parks and Recreation Committee meeting, Committee members observed on different cruise ship days the area in front of the Harbor Place where a tent-covered table is staffed by Chamber employees for the purpose of providing information to cruise ship passengers and

other visitors in the area. Messrs. Kelly and Dobbs took photographs of the area. Mr. Dobbs attended on a double cruise ship day. Mr. Kelly and Mses. Page and Williams randomly visited and spent time with Mr. Fogg on a rainy, single cruise ship day.

Ms. Harty went on a windy, chilly double ship day and met with individuals who worked there. The tent was not in place at that time because of the wind; Ms. Harty considered the set-up as tacky and not identifiable. She observed that the area was very busy with people and buses, and there was not much milling in Harborview Park. She suggested that, if the kiosk is approved for the park, it should go in front of the transformer with removal of some of the existing planter. She thinks people probably would not want to walk down into the park.

Mr. Dobbs said he spent 45 minutes in the area. He said it was the opinion of the Chamber workers there that the kiosk should be where the flower bed is at the end of the passenger "chute" where people are looking for bathrooms, buses, other transportation, and things to do. He added that a greater issue, which has nothing to do with Parks and Recreation, is the need to provide information and to channel people. With regard to the kiosk, it needs to be somewhere in the area; could try different spots. He has no problem with it being in Harborview Park.

Ms. Williams said Bar Harbor is a tourist town and referred to the "Backpacker Magazine" that tells readers to not come here on cruise ship day. She thinks it is not a nice enhancement of the Bar Harbor image for people who are not cruise ship passengers. She responded positively to Ms Harty's idea to cover the transformer with the kiosk rather than the planters. She added that she has accepted Harborview Park as it is, but does consider it unattractive.

Mr. Kelly said that, while he appreciates the desire to manage cruise ship passengers and provide information, the proposed kiosk is not an appropriate use of Harborview Park where people sit/stand in an uncrowded area to enjoy the view. It would cause congestion and disruption on the park and would draw people from the chute onto a narrow sidewalk. In addition, he has a concern for something temporary setting a precedent for permanence. People have told him the image of an unstaffed information booth is a bad one. It is unfair to ask Harborview Park to answer the need. He agrees that the table and tent are tacky; another option should be sought with uniform staffing and better signage.

Ms. Page said she supports the Chamber in getting information out and moving the flow of people, but is less inclined to support the kiosk in an open space. The table and tent do not lend themselves to a pleasing aesthetic effect. Although she loathes removing flowers, she would consider taking out the planter as a kiosk would be more effective cover in front of the transformer.

Ms. Harty inquired if the cruise ships are always coming to this site. Mr. Paradis responded that other options are being considered. The task force has determined that the current location of the table and tent in two parking spaces next to an intersection is a poor situation and wants to get the bottleneck of people dispersed and away from the intersection. The direction away from Harborview Park leads to private property. The Council and the task force have suggested a phase I to improve the park, using \$25,000 cruise ship funds to make safer improvements for all. The Town has contracted with the Chamber to provide

informational services, with full time staffing as a goal, on an experimental basis. He has observed people who look at the tent and then seek information from police and the bus drivers. The buses waiting for passengers slow down the flow of people looking for information. It is the people who are not on an organized tour that are causing the bottleneck.

Mr. Fogg said that, with all due respect to his staff, he would not lend too much weight to their opinion; they do not like change. He thinks it is good to use the kiosk on a trial basis and is working on a plan for full time staffing for the season.

Mr. Kelly referred to the good intentions to have buses park on the uphill side of Agamont Park that turned into parking on three sides. There is a problem of creeping of arrangements. He understands the need to cooperate with the cruise ship passengers. Ms. Page reiterated the issues as the bottleneck, park use, the need to get information out, and what could be done to serve those needs.

Ms. Harty inquired if there are considerations toward moving the site where people arrive. Mr. Paradis responded that there are a lot of players, including the maritime facility where the CAT comes in and private entities. The people currently arrive at a private facility that receives \$4/head. Ms. Williams suggested that, when the cruise ships dock elsewhere, the kiosk goes away.

Mr. Paradis explained that the cruise ship task force recommends a budget that is 85% of the projected cruise ship schedule. Cruise ship fees could be targeted for improvements to Harborview Park with a kiosk. The FY10 budget includes \$10,000 for kiosks. Next year, the Agamont Park comfort stations will be funded by these fees. Also, these fees will be the source for debt service payment of Barker Park, for sidewalk improvements, the additional load on the Public Works Department for street sweeping and comfort station cleaning. It is a blending of some good with the bad.

Ms. Harty asked if the kiosk has been constructed, to which Mr. Paradis responded that is what was proposed. He reiterated that it is a portable structure that is experimental in nature. There is a bigger plan in the works, and it would be placed until the improvements are made. If it does not work, it goes away.

Mr. Kelly said he would not support the proposal as given; he needs to hear other options. Ms. Williams could support the proposal with reservations. She emphasized that the Committee needs to keep all parks separate from commercial interests. Mr. Dobbs said that the Town is accepting cruise ships, that the task force is working to alleviate issues and wants to make Harborview Park a better place for all.

Mr. Paradis read from the August 4, 2009, Town Council Minutes, Item V.Ll., that recorded the motion regarding Council kiosk recommendation, as follows:

- L. Cruise Ship Study Task Force Reports on a variety of subjects:
- **1. Information Kiosk** Recommendation to relocate the information area located in the two western parking spaces in front of Harbor

Place to Harborview Park with the addition of an information kiosk at this new location. — Following discussion, Mr. Paradis, with second by Mr. Veilleux, moved to endorse the idea of relocating the information area located in the two western parking spaces in front of Harbor Place to Harborview Park with the addition the information kiosk at this new location as presented. Further, to direct staff to continue seeking approval from Land & Water Conservation Fund at the Maine Department of Conservation, seek approval from the Design Review Board if needed, and to refer this item to the Parks & Recreation Committee for their approval. Motion passed 7-0.

Ms. Harty moved, with second by Mr. Dobbs, to support a temporary information kiosk, as proposed, for May through November, in Harborview Park. Furthermore, the Town Council and the Parks and Recreation Committee will convene to determine the location by May 1, 2010. Motion failed (2-3).

Following more rehashing of previous comments, Mr. Kelly moved, with second by Ms. Harty, to reconsider the previous motion; motion passed (5-0).

Ms. Williams advised that the Committee may have to accept that it cannot have a consensus. Mr. Kelly said he wants the Committee to have consideration and influence on the result. He reminded the group that this Committee has met in joint committee meetings with the Marine Resource Committee on joint interests. Ms. Page raised the issue that if the Committee is not supposed to have a voice, then why was the topic brought to the Committee.

Ms. Page moved, with second by Mr. Kelly, to recommend to the Town Council that the Parks and Recreation Committee work with the Cruise Ship Task Force and the Town Council on the design and location of an information kiosk in Harborview Park; motion passed (3-2).



## ITEM 5

# D. Items for Next Agenda:

- What Recreation Means
- FY11 YMCA Budget Line Item

# ITEM 6 NEXT MEETING DATE

November 16, 2009; 4:30 PM

VII B. 2

Bar Harbor Cruise Ship Survey

The Bar Harbor Cruise Ship Study Task Force implemented operational changes for vehicles in the vicinity of the Town Pier and Agamont Park. These changes went into effect on cruise ship days as of July 1, 2009. The task force also added a second bus st

to dro from	op off passengers by the Village Green. The task force desires to obtain feedback the residents and downtown business operators to gauge whether or not these sees have been favorable.
1.	Have you tried to access the Town Pier on a day when cruise ships are in?
Yes No	
If so,	do you think these bus and traffic changes have improved access?
Yes No	
	Comments:
2.	There was an additional bus stop added on Mount Desert Street by the Village Green to aid in easing the pedestrian and motor coach congestion of returning tour busses at Harbor Place.
Do yo	ou think this change has improved cruise ship visitor spending choices?
Yes No	
	his additional bus stop improved vehicle access through the Mount Desert /Main Street intersection?
Yes No	
3.	Do you change your own driving/walking habits on cruise ship days?
Yes No	
Comn	nents:

4. The Bar Harbor Cruise Ship Committee is also working on other impacts from cruise ships. Do you see an improvement in the following areas?

A. Bus idling

Much improved Partially improved Not improved

B. Sidewalk congestion

Much improved Partially improved Not improved

# Comments:

- New restrooms are under construction in Agamont Park. This project is funded with proceeds from the Port Development Fee charged to the cruise ships. Projects utilizing these fees must be connected to impacts from or needs for cruise ship visits. What other projects would you like to see funded with these fees?
- 6. Please share any other comments you may have regarding cruise ship visits in Bar Harbor?
- 7. Are you a

Bar Harbor Resident
Bar Harbor Resident and Downtown Business Owner/Employee
Downtown Business Owner/Employee and a non-resident of Bar Harbor
Non- resident of Bar Harbor or a downtown business owner/employee

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# Memo



To: Dana J. Reed, Town Manager

From: Stan Harmon, Finance Director

CC: Chip Reeves, DPW

Date: 4/15/2010

Re: FY10 Budget Transfer - CIP Parks & Rec Equipment

I am asking for Town Council approval to transfer residual donated monies from the Town Hill playground project that was completed over a year ago to the CIP fund in the Parks and Recreation Equipment account. There is currently no money in that account. At their March 1, 2010 meeting the *Parks and Recreation Committee* voted 4-0 to move these remaining funds from the Town Hill VIS donation account to the CIP park equipment reserve for future upgrades.

Increase General Exp. Appropriation

CIP Park Equipment Reserve #2159-6312 \$1,837

Decrease Balance Sheet Account:

A/c for donated park eq. monies #10-1320 \$1,837

An appropriate order would be:

Order that the Treasurer transfer \$1,837 to CIP Park Equipment Reserve budget account #2159-6312 from the remaining Town Hill Playground donations for the purpose of future upgrades to the equipment.

# **Consent Agreement Policy**

Draft

Town of Bar Harbor

The following policy is hereby established in order to standardize the way in which the Town Council will process requests for consent agreements used to settle Land Use Ordinance violations.

## **Authority**

Article X "Enforcement" of the Bar Harbor Land Use Ordinance § 125-101. "Proceedings; Violations and Penalties" provides in pertinent part:

A. Actions and consent agreements.

. . .

(2) The Town Council or its authorized agent is hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this chapter and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue in a shoreland district unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

. . . .

D. Attorneys' fees and costs. An applicant shall pay to the Town all attorneys' fees, court costs and out-of-pocket expenses incurred by the Town in any enforcement action undertaken to correct the applicant's violation of this chapter.

#### Intent

Since the Land Use Ordinance has been adopted by the voters at a lawfully called election, it is the preference of the Town Council that all parties shall bring their property into compliance with the Land Use Ordinance to the maximum extent reasonably possible before approaching the Council with a request for a consent agreement. It is the intent of the Town Council to enter into consent agreements only upon an admission that a violation does in fact exist and upon a showing of why a negotiated settlement is in the best interest of the Town.

## **Typical Procedure**

Enumeration of the following procedure is meant for illustrative purposes only and may be adjusted by the Town Council at any time as needed to meet the current situation or as deemed by the Council to be in the best interest of the Town. Steps shown in italics are to be considered optional at the discretion of staff.

I. Code Officer sends Notice of Violation (NOV)

- II. Owner indicates to the Code Officer an interest in admitting the violation and using a consent agreement to resolve the case, rather than complying with the law or appealing the NOV.
  - A. Code Officer sets up a meeting with Fire Chief and Town Manager.
  - B. The CEO, Chief and Manager all start recording their time to track the Town's expenses.
- III. Code Officer, Fire Chief and Town Manager meet to discuss:
  - A. Details of case,
  - B. Information to be provided by the applicant, and
  - C. Possible resolutions for the violation
- IV. In a letter to the Town Manager the owner:
  - A. Admits to the violation,
  - B. Invites the Council to a site visit,
    - 1. Gives permission for the public to attend the site visit,
  - C. Suggests a comprehensive resolution for all open issues, offering to settle the case by paying the Town's costs as required by LUO 125-101.D and:
    - 1. Correcting the violation,
    - 2. Paying a stipulated penalty, or
    - 3. Combination of the two
  - D. If deemed by the Town Manager to be pertinent, the owner shall attach a scale drawing of the property, sealed by a Registered Land Surveyor, and showing:
    - 1. Property Lines,
    - 2. All structures on the property,
    - 3. Setback lines, and
    - 4. Surveyor's name, north arrow, scale, date, etc.
- V. Town Council holds a preliminary meeting:
  - A. Executive session to discuss the Town's rights and duties with legal counsel.
  - B. Open Session to vote on preferred method to proceed.
- VI. Council holds a second meeting:
  - A. Site visit The purpose of the site visit is to observe site conditions, not to debate the merits of the case. Owners wishing to overturn the Notice of Violation should file an appeal. Accordingly, presentations by the owner, past owner and/or the owner's advocate will not be accepted, although they will be welcome to answer any questions posed by Councilors.
    - 1. As required by law, this will be a public meeting, and the public will be allowed to attend.
    - 2. Meeting notices will be sent, by email or first class mail, to the owner, his/her attorney or agent and the immediate abutters, including those across the street.
  - B. Executive session:
    - 1. Council discusses settlement options with Town Attorney.
    - 2. Owner should be available, although outside the Council's meeting room.
    - 3. Manager acts as an intermediary to negotiate a settlement.

# VII. Detailed consent agreement is drafted:

- A. Town provides the owner's attorney with a copy of a previous agreement.
- B. Owner's attorney drafts a consent agreement modeled on the Town's previous consent agreement.
- C. Town Attorney works directly with owner's attorney to develop an acceptable draft.

# VIII. Consent agreement finalized:

- A. Owner signs the consent agreement and pays any amount due, plus the estimated amount of the Town's cost to prepare and record the agreement at the Registry, including a reasonable amount for the legal expenses of doing so.
- B. Town Manager:
  - 1. Deposits the check as soon as it is received, to start the clearance process.
  - 2. Places the matter on a Town Council agenda.
- C. Council votes in open session to approve the consent agreement.
- D. After the check clears, the Town Manager signs the agreement and provides a copy to the owner and the Code Enforcement Officer.
- E. Town Clerk records the consent agreement at the Registry of Deeds.